**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**WRIT PETITION NO. 5178 (SS) OF 2001**

**(Old No. 30915/1996)**

Bhuwan Chandra Rikhari,
S/o Sri Radha Ballabh Rikhari,
R/o Mohalla Idgah Road,
Ram Nagar, District-Nainital. .....Petitioner.

Versus

1. Officer Incharge,
   Nagar Palika Parishad, Ram Nagar,
   District- Nainital/Executive Magistrate,
   Ram Nagar, District-Nainital.
2. Executive Officer,
   Nagar Palika Parishad, Ram Nagar,
   District- Nainital. .....Respondents.

**22.03.2006**

**Hon'ble Rajesh Tandon, J.**

Heard Sri Manoj Tiwari, Advocate for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the suspension order dated 14.08.1996 (Annexure No. 21 to the writ petition) passed by the respondent no.2 as well as for quashing the charge-sheet dated 26.7.1996 (Annexure No. 20 to the writ petition).

Briefly stated, according to the case of the petitioner, he was appointed on the post of Toil Maharrir/Revenue Moharrir in Nagar Palika, Ram Nagar by means of Order dated 22.08.1987 by the Executive Officer.

After the aforesaid appointment, some complaints were made against the selection of the petitioner on the post of Moharrir, in which it was alleged that he has obtained the appointment order by furnishing forged and fabricated documents viz. experience certificate etc. In pursuance of the aforesaid complaints, an enquiry was made by the then Officer Incharge Nagar Palika Ram Nagar, who after being satisfied stated that there is no substance in the said complaints and dropped the enquiry proceeding and brought the matter to an end vide order dated 11.11.1987.

Again on 02.06.1989, the matter was put up before the then Executive Officer for suitable orders and he also brought the matter to an end vide his order dated 03.12.1990.

Thereafter, the service of the petitioner as Toll Moharrir was confirmed by means of an order dated 04.12.1990 passed by the Executive Officer, Ram Nagar, Nainital in accordance with the service rules and the confirmation of the petitioner was made w.e.f. 25.08.1988.

Petitioner has submitted that he was given officiating appointment on the post of Tax and Revenue Inspector by means of an order dated 13.04.1993 passed by the Director Local Bodies, U.P., Lucknow.

In pursuance of the order dated 13.04.1993, the Chairman Nagar Palika Ram Nagar vide his letter dated 21.05.1993 gave officiating appointment to the petitioner on the post of Tax Inspector. Pursuant to that order, the petitioner joined his duties on the post of Tax Inspector on the same date and continued to serve on the said till 28.03.1996.

The Office In Charge, Nagar Palika Ram Nagar vide his office order dated 28.03.1996 directed the Peshkar, Tehsil Ram Nagar and the petitioner to submit their

explanation/opinion as to whether the signatures of the Additional Director, Local bodies as contained in letters dated 13.04.1993 and 09.11.1992 are similar or not. Pursuant to the letter, the petitioner submitted his reply whereby he stated that the matter may be sent to the Directorate of Local Bodies, Lucknow for getting confirmation. The Peshkar, Ram Nagar in pursuance of the aforesaid order date 28.03.1996 expressed his opinion that the signatures as contained in the aforesaid two letters do not tally and the matter was referred for expert opinion.

Petitioner has submitted that the Officer Incharge, Nagar Palika Parishad Ram Nagar by means of his D.O. letter dated 29.03.1996 sought clarification from the Secretary, Nagar Vikas Government of U.P. Lucknow in respect of the authenticity of the signatures of the Additional Director, Local Bodies as contained in the order dated 13.04.1993 (Annexure -4 to the writ petition). The Officer Incharge further stated in his D.O. letter that the services of an experienced and suitable person on the post of Tax Inspector are required in the Nagar Palika and he requested to appoint some suitable person on regular basis.

Director, Local Bodies vide his office order dated 16.05.1996 addressed the Additional Commissioner (Administration)/Additional Director, Local Bodies, Kuamon Division, Nainital turning down the doubts raised by the Office Incharge, Nagar Palika, Ram Nagar about the authenticity of the signatures. By means of his aforesaid letter, the Director, Locabl Bodies further directed that the order which might have been passed by the Officer Incharge on the basis of non-resemblance of the signatures shall be deemed to be set-aside.

In pursuance of the aforesaid letter dated 16.05.1996 issued by the Director Local Bodies, the Additional Director, Local Bodies, Kumaon Divis9ion Nainital vide his order dated 31st May, 1996 addressed the Officer Incharge cancelling the order dated 28.03.1996 (Annexure No. 6 to the writ petition where by the petitioner was replaced by Sri Chandra Shekhar Phulara on the post of Tax Inspector and it was further directed that the petitioner shall continue on the post of Tax Inspector.

Petitioner has submitted that the Officer In charge Nagar Palika, Ram Nagar knowingly and purposely kept the aforesaid orders date 31.05.1996 and 16.05.1996 in abeyance and the said orders have not been implemented and given effect till date.

The Officer Incharge, Nagar Palika Ram Nagar lodged an FIR dated 18.06.1996 against the petitioner under Section 420/465/568/471 I.P.C. which was registered as Case Crime No. 214/96 at Police Station Ram Nagar.

The petitioner approached this Hon'ble Court by means of an application under Section 482 Cr.P.C., which was registered as Criminal Misc. Application No. 2335 of 1996 and the Hon'ble High Court vide order dated 09.7.1996 directed the court below to consider the bail application moved by him expeditiously. On 12.07.1996, the Addl. Chief Judicial Magistrate, Kashipur granted bail to the petitioner in Case Crime No. 214/96 under Section 420/465/468/471 I.P.C.

The Executive Officer, Nagar Palika Parishad Ram Nagar issued one show cause notice dated 23/24-7-1996 which was received on 30.07.1996 by the petitioner at the instance of the Officer Incharge, Nagar Palika.

In response to the aforesaid show cause notice, the petitioner moved his detailed explanation stating that on the basis of certain complaints in respect of appointment of the

petitioner enquiry was made from time to time by the successive Executive Officer and the Chairman in which the aforesaid charges were found to be bogus and ultimately the then Executive Officer, Nagar Palika Ram Nagar vide his order dated 03.12.1990 finally laid the matter to rest.

On 05.08.1996, the petitioner was served upon the chargsheet dated 26.07.1996 issued by the Executive Officer, Nagar Palika Parishad, Ram Nagar at the instance of the Officer Incharge.

On 26.08.1996, the petitioner was served upon the order- dated 14.08.1996 passed by the Executive Officer, by which the petitioner was suspended from service.

In response to the charge-sheet the petitioner submitted his detailed reply on 19.08.1996 to the Executive Officer whereby he has denied the charge levelled against him by stating entire facts and circumstances.

In view of the aforesaid, in case the inquiry has not yet been completed, the respondents are directed to complete the inquiry within a period of four months from the date of presentation of the certified copy of the order.

Subject to the aforesaid, writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

22.03.2006
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